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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,916	02/28/2000	ANDREAS METELSKI	288.999651	7293

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EXAMINER

MARSH, STEVEN M

ART UNIT PAPER NUMBER

3632

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/423,916

Applicant(s)

METELSKI ET AL.

Examiner

Steven M. Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-30 and 33-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-30, 32-42 and 44-46 is/are rejected.
- 7) ☒ Claim(s) 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the fifth office action for U.S. Application 09/423,916 for a Microscope Stand, Especially for a Surgical Microscope filed by Andreas Metelski et al. on February 28, 2000.

Allowable Subject Matter

Claim 43 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

Claims 16-30, 33-39, and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,609,316 to Tigliev in view of U.S. Patent 3,850,307 to Motoda in further view of U.S. Patent 4,047,731 to Van Auken. Tigliev discloses a microscope stand having a plurality of support members (30,34,40). The support members are connected by metallic interfaces that form a stress free connection between the adjacent parts. The stand has either positioning feet or wheels (see column 2, line 47) and elastomeric pads can be provided as a damping layer between either the wheels and the base (see column 2 line 46) or the base and the floor. Tigliev does not specifically disclose tubular support members.

Motoda discloses an article handling apparatus with a parallel linkage having a plurality of support members. One of the support members (36) is tubular and has an

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internal structure. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a tubular support member on the apparatus taught by Tigliev, as taught by Motoda, for the purpose of allowing an internal structure to be provided in one of the support members.

Tigleiev in view of Motoda does not disclose plurality of support member with first and second concentric tubes formed of first and second materials having a substantially different moduli of elasticity. Van Auken discloses a plurality of tubular support members (11, 12, and 13) that have first (the aluminum core) and second concentric tubes (the surrounding reinforced plastic) that are rigidly connected to each other via an adhesive (see col. 3, lines 41-47) an elastically damped. Van Auken does not specifically disclose cement as the adhesive, but cement is a known commercially available adhesive, and it would have been obvious to one of ordinary skill in the art to use it. The tube is designed to be strong and yet remain lightweight. See col. 2, lines 18-52. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have made the plurality of tubular support members taught by Tigliev in view of Motoda, out of aluminum surrounded by fiber-reinforced plastic as taught by Van Auken, for the purpose of providing strength and keeping the support lightweight.

Tigleiev in view of Motoda, in further view of Van Auken does not specifically disclose the type of fiber-reinforced plastic that is claimed in claims 16-23 or pre-stressing the members as claimed in claims 44 and 45, however, that is a matter of engineering preference and would have been obvious to one of ordinary skill in the art

at the time of the present invention. Nor does Tigliev in view of Motoda, in further view of Van Auken specifically disclose the fiber orientations and winding methods claimed in claims 25-27, however, that too is a matter of engineering preference and would have been obvious to one of ordinary skill in the art at the time of the present invention.

Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tigliev in view of Motoda, in further view of Van Auken, and in further view of U.S. Patent 4,690,960 to Yamauchi et al. Tigliev in view of Motoda, in further view of Van Auken does not disclose a base consisting of two plates rigidly connected around a honeycomb structure. Yamauchi et al. discloses a bed for supporting a microscope (see Column 1, lines 16-25). The bed consists of two plates (72 and 73) fastened around an aluminum honeycomb structure by an adhesive. It would have been obvious to one of ordinary skill in the art at the time of the present invention, to have utilized the teaching of Yamauchi et al. and insert a honeycomb structure in the base taught by Tigliev in view of Motoda, in further view of Van Auken, for the purpose of providing a lightweight, vibration-dampening base.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tigliev in view of Motoda, in further view of Van Auken, and in further view of U.S. Patent 3,637,233 to Hoppl et al. Tigliev in view of Motoda, in further view of Van Auken does not disclose a positioning means for lowering the feet of the base. Hoppl et al. disclose a microscope stand with a base, which has wheels (41 and 43) and feet (36 and 37), as well as a means for simultaneously lowering the feet (54). It would have been obvious to one of ordinary skill in the art at the time of the present invention to

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have utilized the base taught by Hoppl et al., with the microscope stand taught by Tigliev in view of Motoda, in further view of Van Auken, for the purpose of providing a microscope stand with a means for switching between mobile and stationary.

Response to Arguments

Applicant's arguments filed January 18, 2005 have been fully considered but they are not persuasive. Applicant argues that Van Auken fails to disclose the single fiber-reinforced aluminum tube concentric tube. However, wrapping the aluminum tube with the fiber-reinforced plastic gore as taught by Van Auken creates a plastic tube formed around the aluminum tube. Applicant also argues that the prior art fails to teach an interface dividing the support members into a pair of support members. However, the various components of Tigliev are connected by pins (the interface where they meet).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

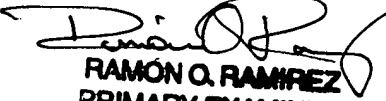
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Steven Marsh

September 2, 2005


RAMÓN O. RAMÍREZ
PRIMARY EXAMINER